

CHAPTER 1

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CHAPTER 1 - Adoption, Purpose and Applicability

ARTICLE 1.1. - TITLE AND AUTHORITY.

Sec. 1.1.1. - Short title.

This ordinance, as it may be amended from time to time, shall be formally known and referred to as the "Edgefield County Land Management Ordinance" or, for brevity, "the Land Management Ordinance" or "this Ordinance."

Sec. 1.1.2. - Authority.

The Land Management Ordinance is adopted pursuant to the authority conferred by the General Statutes of South Carolina, 1976 Code of Laws, Title 6, Chapter 29 of the Comprehensive Planning Enabling Act of 1994, as amended.

ARTICLE 1.2. - ADOPTION.

Sec. 1.2.1. - Adoption of the Land Management Ordinance.

Under the authority and for the purposes stated herein, the County Council of Edgefield County does hereby enact as law the chapters, articles, and sections contained in this Ordinance.

Sec. 1.2.2. - Components of the Land Management Ordinance.

This Land Management Ordinance and the Official Zoning Map of the County on file and maintained in the Building and Planning Department shall together constitute the Land Management Ordinance of Edgefield County, South Carolina.

Sec. 1.2.3. - Conflict with other regulations.

1.2.3.1 Where there is conflict between the regulations of this Ordinance and those in any other regulation, the more restrictive regulation shall govern. In addition, this Ordinance shall abrogate any other regulations previously adopted or issued that are in conflict with any of the provisions of this Ordinance relating to the use of buildings or land in conflict with this Ordinance.

1.2.3.2 The Land Management Ordinance shall not annul any easements, covenants or other agreements between parties; provided, however, that whenever this Ordinance imposes a greater restriction upon the use of buildings or land than are imposed by such easements, covenants or agreements, the provisions of the Land Management Ordinance shall control.

1.2.3.3 In no case shall Edgefield County be required to enforce private easements, covenants, or other private agreements or legal relationships, whether they are more restrictive than the requirements of the Land Management Ordinance or they apply a standard that is not addressed in this Ordinance.

1.2.3.4 All ordinances and parts of ordinances of the Edgefield County, South Carolina, heretofore adopted that are in conflict with this Land Management Ordinance, other than ordinances and approving the rezoning of land or special uses, are hereby repealed to the extent of such conflict.

Sec. 1.2.4. - Validity.

Should any chapter, article, section, subsection or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Land Management Ordinance as a whole or any part thereof other than the part so declared to be invalid.

Sec. 1.2.5. - Effective date.

The Land Management Ordinance shall take effect and be in force from and after _____, 2020. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

ARTICLE 1.3. - PURPOSE.

Sec. 1.3.1. - Land Management Ordinance.

The purpose of the Land Management Ordinance is to promote public health, safety, morals, convenience, order, appearance, prosperity, and general welfare of the community in harmony with the adopted Comprehensive Plan for Edgefield County, and is intended:

- 1.3.1.1 To lessen congestion in the streets;
- 1.3.1.2 To secure safety from fire;
- 1.3.1.3 To provide adequate light, air, and open space;
- 1.3.1.4 To prevent the overcrowding of land;
- 1.3.1.5 To avoid undue concentration of population;
- 1.3.1.6 To facilitate the creation of a convenient, attractive and harmonious community;
- 1.3.1.7 To protect and preserve scenic, historic, and ecologically sensitive areas; and
- 1.3.1.8 To facilitate the provision of public services, affordable housing, and disaster evacuation.

Sec. 1.3.2. - Comprehensive Plan.

The Edgefield County Comprehensive Plan is intended for the following purposes, among others:

- 1.3.2.1 To guide and direct growth and development in the county;
- 1.3.2.2 To identify current land uses in order to assist the County in making budgetary, utility and other resource allocations;
- 1.3.2.3 To enable the County to predict future land uses for planning purposes;
- 1.3.2.4 To assist the County in fulfilling its statutory and other legal obligations; and
- 1.3.2.5 To provide a public document that will serve as a means of general information on land use and development for the citizens of Edgefield County and other interested parties.

ARTICLE 1.4. - APPLICABILITY.

Sec. 1.4.1. - Land to which this ordinance applies.

The Land Management Ordinance applies to all lands and the buildings, structures and uses thereon within the unincorporated areas of Edgefield County, South Carolina.

Sec. 1.4.2. - Exemptions.

1.4.2.1 Conditions of approval.

1.4.2.1.1. Nothing herein shall be construed as repealing or modifying the conditions of approval associated with any zoning, special exception, or variance approved prior to the effective date of this Ordinance.

1.4.2.1.2. Conditions of approval shall continue in full force and effect until such time as the property is rezoned or the prior action of the County Council is amended through the applicable rezoning, special exception, or variance process established by this Ordinance.

1.4.2.2 Previously submitted applications.

1.4.2.2.1. Valid and complete applications accepted by the County prior to adoption of the Land Management Ordinance for the use or development of land shall be processed and issued under the applicable County regulations in effect prior to adoption or amendment of this Ordinance; provided, however, the County may refuse an application under the circumstances described in Sec. 1.4.2.2.1.1 and Sec. 1.4.2.2.1.2 below.

1.4.2.2.1.1. The County shall deny an application for a land use that would be allowed under the proposed Land Management Ordinance or amendment pending at the time of application for the permit but that is prohibited under existing regulations.

1.4.2.2.1.2. The County may deny an application for a land use when the use is allowed under existing regulations but is not allowed under the proposed Land Management Ordinance or amendment pending at the time of application for the permit.

1.4.2.2.1.3. As used in Sec. 1.4.2.2.1.1 and Sec. 1.4.2.2.1.2 above, the term "pending" shall mean the County has advertised to the public its intentions to hold public hearings on the proposed Land Management Ordinance or amendment.

1.4.2.3 Previously issued permits.

Nothing herein shall require any change in the plans, construction, size or designated use of any land, building, structure or part thereof for which a building permit was issued prior to the effective date of this Ordinance or amendment thereto if:

1.4.2.3.1. The development activity or building construction authorized by the approval or permit has been commenced prior to the effective date of this Ordinance or the amendment, or will be commenced after such effective date but within 6 months of issuance of the permit; and

1.4.2.3.2. The development activity or building construction continues without interruption (except because of natural disaster) until the development or construction is complete. If the approval or permit associated with a site expires, any further development or construction on that site shall occur only in conformance with the requirements of the Land Management Ordinance in effect on the date of the permit expiration unless the permit is extended by the Building Official upon application by the owner/developer..

1.4.2.4 Recently approved rezonings or special exceptions.

Any property rezoned or approved as a special use within the 6 calendar months preceding adoption or amendment of the Land Management Ordinance, but for which such use is not allowed under this Ordinance, shall nonetheless be allowed to be used for such purpose as previously approved, provided that:

1.4.2.4.1. A building permit authorizing such use is issued within 6 calendar months after the date of adoption or amendment of the Land Management Ordinance; and

1.4.2.4.2. The development activity or building construction continues without interruption (except because of natural disaster) until the development or construction is complete. If the building permit expires, any further development or construction on that site shall occur only in conformance with the requirements of the Land Management Ordinance in effect on the date of the permit expiration unless the permit is extended by the Building Official upon application by the owner/developer.

1.4.2.5 Effect of ordinance on exempt properties.

To the extent that exemption under this Sec. 1.4.2. -results in nonconformity with the provisions of this Ordinance, such properties shall be governed by the requirements of ARTICLE 1.5. - below.

ARTICLE 1.5. - NONCONFORMITIES.

Sec. 1.5.1. - Nonconformities, in general.

1.5.1.1 Lawfully nonconforming uses, structures, buildings, lots, and signs are declared by this Land Management Ordinance to be incompatible with land uses, structures, buildings, lots, and signs that conform to the districts in which the nonconformity exists.

1.5.1.2 However, to avoid undue hardship, the lawful use of any such uses, structures, buildings, lots, and signs at the time of the enactment, amendment, or revision of this Ordinance may be continued (grandfathered) even though such use, structure, building, lot, and sign does not conform with the provisions of this Ordinance.

Sec. 1.5.2. - Nonconforming uses.

1.5.2.1 Nonconforming uses; defined.

A nonconforming use is a use or activity that was lawfully established prior to the adoption or amendment of the Land Management Ordinance, but which, by reason of such adoption or amendment, is no longer a use or activity allowed by right or no longer meets or conforms to the requirements of this Ordinance.

1.5.2.2 Modification.

A proposed change or modification to a nonconforming use shall be governed by the following:

1.5.2.3 Change of nonconforming use.

1.5.2.3.1. If a change from one nonconforming use to another is proposed and no structural alterations are involved, the change may be allowed, provided:

1.5.2.3.1.1. Nonconformity of dimensional requirements such as height, density, setbacks, or other requirements such as off-street parking shall not be increased; and

1.5.2.3.1.2. The proposed change will have little discernible impact over the existing nonconforming use.

1.5.2.3.2. Whenever a nonconforming use of land or building has been changed to a more restricted nonconforming use or to a conforming use, such use shall not thereafter be changed back to a less restricted or nonconforming use.

1.5.2.4 Enlargement or expansion of nonconforming use.

Enlargement or expansion of a nonconforming use shall be allowed; provided such enlargement shall meet all applicable setbacks, buffer area and off-street parking requirements, and such enlargement shall not extend to an adjoining property.

1.5.2.5 Discontinuance of nonconforming use.

No building or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a continuous period of 6 months, whether or not the equipment or fixtures are removed and regardless of any reservation of an intent to resume or an intent not to abandon such use, shall again be used except in conformity with the regulations of the district in which such building or land is located.

Sec. 1.5.3. - Nonconforming structures.

1.5.3.1 Nonconforming structures; defined.

A nonconforming structure is a structure or building whose size, dimensions, location on a property or other features were lawful prior to the adoption or amendment of the Land Management Ordinance, but which, by reason of such adoption or amendment, no longer meets or conforms to one or more such requirements of this Ordinance.

1.5.3.2 Continuance of nonconforming structures.

A nonconforming structure may continue to be occupied and used, except that:

1.5.3.2.1. A nonconforming structure shall not be repaired, rebuilt or altered after damage or destruction of 50% or more of its value, unless the structure is an owner-occupied dwelling.

1.5.3.2.2. A nonconforming structure may be repaired, rebuilt or altered to its original configuration after damage or destruction not exceeding 50% of its value, provided that allowed reconstruction begins within 1 year after the damage or destruction is incurred.

1.5.3.2.3. A nonconforming structure shall not be enlarged or altered in a way that increases its nonconformity, but it may be repaired to the extent necessary to maintain it in a safe and sanitary condition upon order of the Building Official.

1.5.3.2.4. For the purpose of this Section, "value" shall be computed from the amount a building or structure, as applicable, is appraised for tax purposes by Edgefield County.

1.5.3.3 Enlargement or expansion of nonconforming structure.

Enlargement or expansion of a nonconforming structure shall be allowed; provided such enlargement shall meet all applicable setbacks, buffer area and off-street parking requirements, and such enlargement shall not extend to an adjoining property.

1.5.3.4 Hardship replacement.

In the event any home is destroyed by fire or natural disaster, and is rendered uninhabitable, the occupant/owner may replace such destroyed dwelling with any type dwelling, irrespective of prevailing district requirements; provided such dwelling shall meet:

1.5.3.4.1. All applicable setback requirements of the district; and

1.5.3.4.2. If the replacement dwelling is a manufactured home, the requirements of **Section 24-69**.

1.5.3.1 Replacement of nonconforming structure.

A building permit for the replacement of a nonconforming building or structure shall be initiated within 6 months of removal or forfeit nonconforming status; existing setbacks shall be considered grandfathered.

Sec. 1.5.4. - Nonconforming lots.

1.5.4.1 Nonconforming lots; defined.

A nonconforming lot is a lot of record whose area, frontage, width or other dimensions, or location were lawful prior to the adoption or amendment of the Land Management Ordinance, and which, by reason of such adoption or amendment, no longer meets or exceeds one or more such requirements of the applicable zoning district.

1.5.4.2 Lot of record.

Where the owner of a lot at the time of the adoption or amendment of this Ordinance does not own sufficient land to enable him to conform to the setback requirements of the applicable zoning district, such lot may nonetheless be used as a building site provided applicable setback requirements are not reduced by more than 25%. Setback reductions greater than 25% shall be referred to the Board of Zoning Appeals for consideration.

Sec. 1.5.5. - Nonconforming signs.

See Chapter 7 of this Ordinance.